



# **Maryland Health Care Commission**

Tuesday, October 16, 2018

1:00 p.m.



# AGENDA

1. APPROVAL OF MINUTES
2. UPDATE OF ACTIVITIES
3. ACTION: Certificate of Need – Brinton Woods Health and Rehabilitation at Winfield (Docket No. 18-06-2422)
4. ACTION: Certificate of Need – University of Maryland, St. Joseph’s Medical Center (Docket No. 18-03-2415)
5. ACTION: Exemption from Certificate of Need Review for the Merger and Consolidation of Adventist Behavioral Health
6. ACTION: Maintenance of Certification Workgroup Study
7. ACTION: COMAR 10.24.20 – State Health Plan for Facilities and Services: Comprehensive Care Facility Services – Proposed Permanent Regulations
8. ACTION: COMAR 10.24.08 – State Health Plan for Facilities and Services: Special Hospital – Chronic Services – Proposed Permanent Regulations
9. ACTION: Approval of New Member for the Cardiac Services Advisory Committee
10. OVERVIEW OF UPCOMING INITIATIVES
11. ADJOURNMENT



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# **APPROVAL OF MINUTES**

(Agenda Item #1)



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# **UPDATE OF ACTIVITIES**

(Agenda Item #2)



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## **ACTION:**

**Certificate of Need – Brinton Woods Health and Rehabilitation at Winfield (Docket No. 18-06-2422)**

(Agenda Item #3)





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## **ACTION:**

**Certificate of Need – University of Maryland, St. Joseph’s  
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(Agenda Item #4)



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# **ACTION:**

Exemption from Certificate of Need Review for the Merger  
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(Agenda Item #5)



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# **ACTION:**

## Maintenance of Certification Workgroup Study

(Agenda Item #6)



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COMAR 10.24.20 – State Health Plan for Facilities and Services:  
Comprehensive Care Facility Services – Proposed Permanent  
Regulations

COMAR 10.24.08 – State Health Plan for Facilities and Services:  
Special Hospital – Chronic Services – Proposed Permanent  
Regulations

(Agenda Item #7 & #8)





# **Proposed Comprehensive Care Facility Chapter of State Health Plan**

**Center for Health Care Facilities  
Planning and Development**

October 16, 2018

# Overview of Presentation

- **Development of Regulations**
- **New Features**
- **Comments Received during Informal Public Comment Period**
- **Staff Analysis and Response**
- **Bed Need Methodology**
- **Next Steps**

# Development of Proposed Chapter

- **Internal Drafts and Updates**
- **Commissioner Consultation Group (3 meetings)**
- **Nursing Home Work Group (3 meetings)**
- **Informal Public Comment Period (6/6/2018-7/13/2018)**
- **Background and Status Report at June Commission Meeting**

# What is new?

## **CON Process:**

Added Docketing Rules  
Added Docketing Rule Exceptions  
Modified Waiver Bed Rules

## **Continuum of Care:**

Nursing Home-Hospital Collaboration  
Nursing Home-Community Collaboration  
Risk-Sharing Agreements

## **Focus on Quality:**

Docketing Rule Exception  
Standard

## **Innovative Design:**

FGI Guidelines  
Reducing Institutional Character of Facilities

## **Updated Bed Need Projection Methodology**

# Comments Received during Informal Public Comment Period

- **Health Facilities Association of Maryland (HFAM)**
- **Lifespan Network**
- **Lorien Health Services**
- **Office of Health Care Quality (OHCQ)**

# Major Issues Raised During Informal Public Comment Period

- **Timing of the update to regulations**
- **Requirement for minimal levels of service to Medicaid patients**
- **Design guidelines for CCFs – possible duplication with licensure rules**
- **Use of *Nursing Home Compare* Star Rating system as a performance measure**
- **Permitting CCF development/expansion in jurisdictions without bed need under specific circumstances**
- **Prohibiting applications by persons/entities with track record issues during the last ten years**
- **The revised bed need projection methodology**

# Staff Analysis and Response to Issues

## **Timing of this update and overlap of work on CON modernization**

- **CON Task Force: purposes and goals**
- **Other Chapters**
- **Other CON Activities**

## **Required levels of service to Medicaid patients**

- **Promoting equitable access for patients**
- **Promoting equitable burden-sharing by providers seeking CONs**
- **Joint Chairmen's Report**
- **Staff recommended changes**

# Staff Analysis and Response to Issues

## **Facility design guidelines**

- **Not incorporated in licensing regulations**
- **Stricter MHCC regulations**

## **Use of *Nursing Home Compare* star rating system**

- **Quality measures an important MHCC focus**
- **Tested, validated, and used nationally**
- **Permits assessment of facilities in MD and other states**
- **Staff recommended changes**



# Staff Analysis and Response to Issues

## **Opportunities for CCF development**

- **Additional choices for consumers in jurisdictions with too many poor performers based on *Nursing Home Compare* star ratings**
- **Permitting facilities to add beds to make replacement more feasible for smaller CCFs**
- **Permitting innovation consistent with the Total Cost of Care Model**

## **Fewer opportunities for CCF development for “bad actors”**

- **10 year look-back based on federal rules**
- **Staff recommended changes**

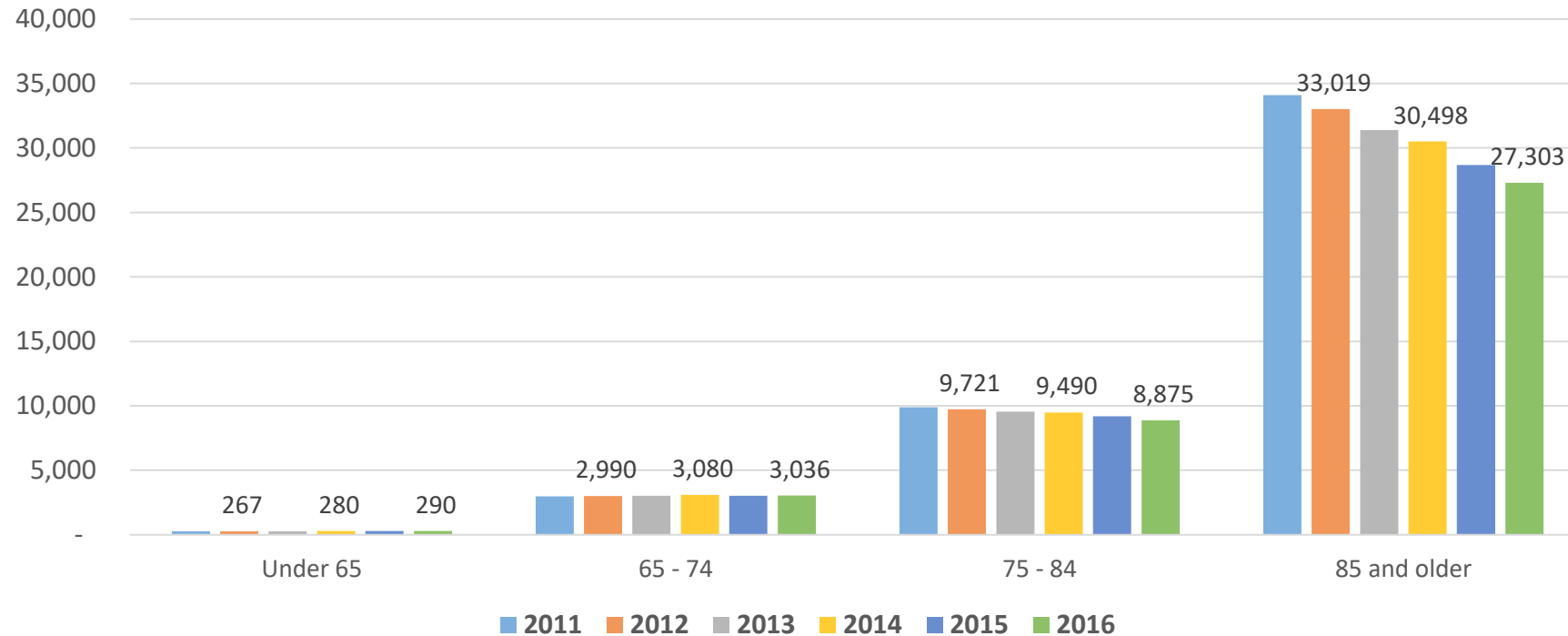
# **Bed Need Methodology: Updates and Assumptions**

# Proposed Nursing Home Bed Need Methodology

**The proposed bed need methodology is similar to the current bed need methodology. It improves on and simplifies some key steps as follows:**

- Takes into account patterns of use by age by modeling demand using observed rates of change in statewide use rates;**
- Factors in use of Maryland nursing homes by non-Maryland residents;**
- Simplifies the migration adjustment for Maryland jurisdictions by means of net in- and out-migration;**
- Shortens the projection horizon to five years from the base year;**
- Uses total estimated and projected population; and**
- Adds a jurisdictional occupancy standard as a final step in making a finding of net bed need.**

# Maryland Statewide Use Rate Trends, 2011 - 2016



State	Age	Use Rate (Patient Days per 1,000 Population)						Annual Change of Use Rate					Avg. Annual Change
		2011	2012	2013	2014	2015	2016	2012	2013	2014	2015	2016	
MD	Under 65	265	267	269	280	286	290	0.7%	0.9%	4.1%	1.9%	1.5%	1.8%
MD	65 - 74	2,980	2,990	3,015	3,080	3,027	3,036	0.3%	0.8%	2.2%	-1.7%	0.3%	0.4%
MD	75 - 84	9,879	9,721	9,540	9,490	9,181	8,875	-1.6%	-1.9%	-0.5%	-3.3%	-3.3%	-2.1%
MD	85 and older	34,101	33,019	31,379	30,498	28,680	27,303	-3.2%	-5.0%	-2.8%	-6.0%	-4.8%	-4.3%

Source: MDS data 2011-2016; MD Dept of Planning Population Projections

# Methodology Steps

- Step 1: Calculate base year use rate.
- Step 2: Forecast target year use rate based on observed trend in statewide use rate by age over the last six years.
- Step 3: Forecast target year patient days by applying use rate forecast to projected target year population.
- Step 4: Adjust target year patient day forecast (from Step 3) to account for migration from out of state and patients of unknown origin.
- Step 5: Forecast target year bed need for adjusted target year patient day forecast (from Step 4).
- Step 6: Forecast net migration target year bed need to account for net migration (net of in- and out-migration) among Maryland jurisdictions.
- Step 7: Forecast adjusted target year bed need by adding first adjusted target year bed need (from Step 5) and net migration target year bed need (from Step 6).
- Step 8: Forecast final adjusted target year bed need based on most recent year of average annual bed occupancy and status of approved or recently opened facilities.

# 2021 Maryland Nursing Home Bed Need Projection

	Target Year Patient Days Projection Using Statewide Use Rate Trends				Migration into MD from Outside MD or of Unknown Origin		Target Year Gross Bed Need		Net Migration among Maryland Jurisdictions		Target Year Adjusted Bed Need			Average Occupancy Rate
					(e) In-Migration Days from Outside MD or of Unknown Origin (Avg. of 2014-2016)		(g) 2021 Total Projected Patient Days (=d*(1+f))	(h) 2021 Projected Gross Bed Need at 95% Occu (=g/365/0.95)	(i) Net Migration for MD (Avg. of 2014-2016)	(j) Net Bed Need due to Net Migration at 95% Occu (=i/365/0.95)	(k) 2021 Adjusted Bed Need (=h+j)	(l) 2018 Bed Inventory	(m) 2021 Adjusted Net Bed Need (=l-k)	(n) Avg Occu 2015&2016
Jurisdiction	(a) 2016 Resident Days	(b) 2016 Population	(c) 2021 Projected Population	(d) 2021 Projected Resident Days		(f) Ratio of In-Migration Days to Resident Days (=e/a)								
ALLEGANY	251,282	73,365	76,099	243,521	38,796	15.4%	281,119	811	4,136	12	823	930	-107	87.7%
ANNE ARUNDEL	495,000	564,748	575,262	514,655	21,540	4.4%	537,050	1,549	68,732	198	1,747	1,817	-70	89.1%
BALTIMORE	1,519,507	832,339	848,730	1,468,089	30,754	2.0%	1,497,802	4,320	184,207	531	4,851	5,403	-552	89.5%
BALTIMORE CITY	1,455,027	615,826	616,598	1,436,559	23,031	1.6%	1,459,298	4,209	-195,555	-564	3,645	3,886	-241	90.4%
CALVERT	102,392	98,176	126,717	148,205	3,613	3.5%	153,435	442	-12,319	-36	407	310	97	87.7%*
CAROLINE	55,394	33,118	34,468	55,679	2,692	4.9%	58,385	168	-775	-2	166	187	-21	83.8%
CARROLL	236,807	167,765	169,547	252,883	15,104	6.4%	269,012	776	48,362	139	915	931	-16	87.9%
CECIL	131,524	102,795	105,922	141,253	18,154	13.8%	160,750	464	-8,954	-26	438	456	-18	80.2%
CHARLES	164,371	157,779	169,160	183,094	9,470	5.8%	193,643	558	-16,297	-47	511	495	16	89.8%*
DORCHESTER	81,754	32,648	34,638	82,348	880	1.1%	83,234	240	-5,967	-17	223	281	-58	87.0%
FREDERICK	346,274	248,466	266,023	380,785	21,403	6.2%	404,321	1,166	-14,625	-42	1,124	1,148	-24	88.9%
GARRETT	80,415	29,729	30,407	78,630	16,505	20.5%	94,769	273	6,895	20	293	317	-24	92.7%
HARFORD	270,903	251,911	258,986	292,406	6,598	2.4%	299,528	864	-19,953	-58	806	831	-25	91.3%
HOWARD	210,413	316,744	340,453	237,196	7,632	3.6%	245,799	709	-30,085	-87	622	629	-7	89.3%
KENT	58,161	19,848	21,021	60,768	2,221	3.8%	63,089	182	6,433	19	200	228	-28	80.2%
MONTGOMERY	1,091,648	1,038,910	1,058,712	1,077,860	256,016	23.5%	1,330,642	3,837	99,832	288	4,125	4,584	-459	87.0%
PRINCE GEORGES	900,467	907,547	920,100	992,036	248,410	27.6%	1,265,707	3,650	-162,919	-470	3,180	2,974	206	91.9%**
QUEEN ANNES	49,389	49,039	51,129	53,347	620	1.3%	54,017	156	-12,381	-36	120	120	0	85.5%
SAINT MARYS	128,568	113,726	121,878	138,509	12,013	9.3%	151,451	437	52,976	153	590	611	-21	92.9%
SOMERSET	65,882	25,903	26,992	65,254	4,028	6.1%	69,244	200	-2,833	-8	192	214	-22	87.5%
TALBOT	76,422	37,832	39,082	76,500	2,409	3.2%	78,911	228	5,080	15	242	269	-27	88.1%
WASHINGTON	306,165	151,312	158,656	307,780	47,063	15.4%	355,091	1,024	10,526	30	1,054	1,142	-88	89.2%
WICOMICO	166,498	102,765	107,198	173,983	10,805	6.5%	185,274	534	6,537	19	553	613	-60	81.3%
WORCESTER	94,027	51,727	53,612	94,636	14,720	15.7%	109,451	316	-11,053	-32	284	307	-23	85.5%
Statewide	8,338,290	6,024,018	6,211,390	8,555,976	814,477	9.8%	9,401,022	27,112	0	0	27,112	28,683	-1,571	88.9%

\* Bed need will be adjusted to zero because most recent observed average annual bed occupancy rate in last two years is below 90%.

\*\* Bed need will be adjusted to zero because new facility opened during past 2 years.

# Actions Requested and Next Steps

## Actions Requested

- **Promulgation of COMAR 10.24.20 as proposed permanent regulations**
- **Repeal and replace COMAR 10.24.08 on parallel track, contingent on final approval of COMAR 10.24.20**

## Next Steps

- **Publication in *Maryland Register***
- **Formal Comment Period**
- **Return to Commission for final action**





## Step 2: Maryland Jurisdictional Patient Days Projection

Jurisdiction of Residence	Age	2016			Statewide Avg. Use Rate Change	Projected 2021		
		Resident Days	Population Estimate	Use Rate		Use Rate	Population	Resident Days
ALLEGANY	Under 65	20,201	58,904	343	1.8%	375	59,789	22,438
	65 - 74	42,794	7,719	5,544	0.4%	5,650	8,724	49,293
	75 - 84	76,049	4,666	16,298	-2.1%	14,645	5,468	80,079
	85 and older	112,238	2,076	54,057	-4.3%	43,297	2,118	91,711
	<b>Total</b>	<b>251,282</b>	<b>73,365</b>				<b>76,099</b>	<b>243,521</b>
ANNE ARUNDEL	Under 65	90,433	484,650	187	1.8%	204	481,910	98,400
	65 - 74	94,567	49,397	1,914	0.4%	1,951	56,255	109,757
	75 - 84	139,999	21,792	6,424	-2.1%	5,773	27,386	158,093
	85 and older	170,001	8,910	19,081	-4.3%	15,283	9,711	148,404
	<b>Total</b>	<b>495,000</b>	<b>564,748</b>				<b>575,262</b>	<b>514,655</b>
BALTIMORE COUNTY	Under 65	229,008	696,631	329	1.8%	360	694,950	249,997
	65 - 74	254,320	74,383	3,419	0.4%	3,484	87,431	304,652
	75 - 84	366,419	37,672	9,727	-2.1%	8,740	42,419	370,743
	85 and older	669,760	23,654	28,315	-4.3%	22,679	23,930	542,697
	<b>Total</b>	<b>1,519,507</b>	<b>832,339</b>				<b>848,730</b>	<b>1,468,089</b>

Assumption: Jurisdictional use rate for each age group will change over the five-year forecasting period at the annual rate of change observed for the entire state over the past five years.

## Step 3: In-Migration from Outside Maryland or of Unknown Origin

Jurisdiction of Care	Patient Days Originating from Outside Maryland or of Unknown Origin				2016 Resident Days	Ratio of Avg. In- migration Days to Resident Days	2021 Projected Resident Days	2021 Projected Adjusted Patient Days
	2014	2015	2016	Average of 2014-2016				
ALLEGANY	39,311	39,148	37,928	38,796	251,282	15.4%	243,521	281,118
ANNE ARUNDEL	19,089	21,182	24,348	21,540	495,000	4.4%	514,655	537,050
BALTIMORE COUNTY	28,539	30,494	33,230	30,754	1,519,507	2.0%	1,468,089	1,497,803

Assumption: Ratio of in-migration days observed in recent three years from all other states or of unknown origin to the base year resident days is assumed to remain constant in the future.

## Step 4: Net Migration for Maryland Jurisdictions

Jurisdiction	In-Migration Days			Out-Migration Days			Net Migration Days			Avg. Net Migration Days of 2014 - 16
	2014	2015	2016	2014	2015	2016	2014	2015	2016	
ALLEGANY	23,104	23,981	23,192	19,262	18,683	19,925	3,842	5,298	3,267	4,136
ANNE ARUNDEL	164,755	178,534	182,958	106,555	104,734	108,762	58,200	73,800	74,196	68,732
BALTIMORE COUNTY	552,567	569,505	561,367	375,387	377,035	378,397	177,180	192,470	182,970	184,207

In-Migration Days – Patient days of patients getting care in the jurisdiction’s CCFs but originating in other Maryland jurisdictions

Out-Migration Days – Patient days of patients originating in the jurisdiction but getting care in another Maryland jurisdiction

Net Migration Days – the difference between in-migration days and out-migration days

Assumption: Net migration for each jurisdiction will not change over the five year forecasting period.



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# **ACTION:**

Approval of New Member for the Cardiac Services  
Advisory Committee

(Agenda Item #9)



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# **Overview of Upcoming Initiatives**

(Agenda Item #10)



ENJOY THE REST OF  
YOUR DAY